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EXAMINER

PENG, KUO LIANG

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,052

Applicant(s)

AKBAR ET AL

Examiner

Kuo-Liang Peng

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Applicants' amendment filed on November 21, 2005 was received.

Claims 1-16 are amended. Claims 17-46 are deleted. Now, Claims 1-16 are pending.

2. Claim rejection(s) (except Claims 10 and 16) under 35 USC 112 in paragraph 8 of the previous Office Action (Paper No. 061105) is/are removed.

3. Claim rejection(s) under 35 USC 102 in paragraph 10 of the previous Office Action (Paper No. 061105) is/are removed.

4. The text of those sections of Title 35, U.S. code not included in this action can be found in a prior Office Action (Paper No. 061105).

Double Patenting

5. Rejections of Claims 1-16 under double patenting are maintained because the rejections are adequately set forth in paragraphs 3-6 of Paper No. 061105.

Applicant's arguments have been fully considered but they are not persuasive. The

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focus argument related to the core patentability is discussed below. Applicants request that the rejections be held in abeyance.

Claim Rejections - 35 USC § 112

6. Rejections of Claims 10 and 16 under 35 USC 112, second paragraph, are maintained because the rejections are adequately set forth in paragraph 8 of Paper No. 061105. Applicant's arguments have been fully considered but they are not persuasive. The focus argument related to the core patentability is discussed below. Note that the vinyl contents recited in the specification ([0081]) are merely preferred ones. They are certainly not the definition, per se, of the vinyl content. Furthermore, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. In re Van Guens, 988 F. 2d 1811, 26 USPQ 2d 1057 (Fed. Cir. 1993)

Claim Rejections - 35 USC § 102 and 103

7. Rejection of Claims 1-2 under 35 USC 102(b) as being unpatentable over Patel (US 5 691 067) is maintained because the rejection is adequately set forth in paragraph 11 of Paper No. 061105. Applicant's arguments have been fully

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considered but they are not persuasive. The focus argument related to the core patentability is discussed below.

For Applicants' argument (Remarks, page 7, 1st paragraph), as mentioned in the previous Office action, Patel teaches cookwares and bakewares, such as fryer or hamburger or waffle makers (col. 2, lines 4-33) that certainly contain basins configured to receive a food substance. The coating of cookwares and bakewares is certainly a part of the cookwares and bakewares.

4. Rejection of Claims 1-16 under 35 USC 103(a) as being unpatentable over Beale (US 2003/0047838), optionally in view of Hompanera (US 6 197 359) and optionally further in view of Togashi (US 5 232 959) and/or Wang (US 6 750 279) and/or Hergenrother (US 5 932 649) is maintained because the rejection is adequately set forth in paragraphs 13-17 of Paper No. 061105. Applicant's arguments have been fully considered but they are not persuasive. The focus argument related to the core patentability is discussed below.

For Applicants' argument (Remarks, page 7, last paragraph to page 8, 1st paragraph), note that Beale teaches, "Although an apparatus made from 100% PTFE is preferred, the major drawback of PTFE is its cost." ([0030]) (Emphasis

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added) Thus, Beale certainly does not teach away of using PTFE in a lesser amount because of the reason mentioned in the previous Office action.

For Applicants' argument (Remarks, page 8, 2nd and 3rd paragraphs), Beale teaches the amount of the silicone rubber can be up to 70%, preferably, up to 65%. ([0029]) Beale further teaches that a filler can be used in an amount described in [0031]. Obviously, the rest can be PTFE.

For Applicants' argument (Remarks, page 8, 4th paragraph), the arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997) ("An assertion of what seems to follow from common experience is just attorney argument and not the kind of factual evidence that is required to rebut a *prima facie* case of obviousness."). See MPEP § 716.01(c) for examples of attorney statements which are not evidence and which must be supported by an appropriate affidavit or declaration.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

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See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an

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application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp
January 17, 2006



Kuo-Liang Peng
Primary Examiner
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